



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0546; FRL-9685-8]

Revisions to the California State Implementation Plan, San

Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the manufacture of polystyrene, polyethylene, and polypropylene products. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATE: Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2011-0546, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large

maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rynda Kay, EPA Region IX, (415) 947-4118, Kay.Rynda@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

- A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Adopted	Submitted
SJVUAPCD	4682	Polystyrene, Polyethylene, and Polypropylene Products Manufacturing	12/15/2011	02/23/2012

On March 13, 2012, EPA determined that the submittal for SJVUAPCD Rule 4682 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 4682 into the SIP on June 13, 1995 (60 FR 31086). The SJVUAPCD adopted revisions to the SIP-approved version on September 20, 2007 and CARB submitted them to us on March 7, 2008. On July 15, 2011 (76 FR 41745), we proposed a limited approval and limited disapproval of the 2007 version of SJVUAPCD Rule 4682. However, the 2011 version of the rule superseded the 2007 version, and we do not intend to finalize action on the 2007 version.

C. What is the purpose of the submitted rule revision?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Rule 4682 was designed to reduce emissions of VOCs from the manufacturing, processing and storage of products composed of

polystyrene, polyethylene, and polypropylene. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 4682 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "Averaging Times for Compliance With VOC Emission Limits - SIP Revision Policy," memorandum from John R. O'Connor, OAQPS, dated January 20, 1984.

B. Does the rule meet the evaluation criteria?

On July 15, 2011 (76 FR 41745), we proposed a limited approval and limited disapproval of a previous version of SJVUAPCD Rule 4682. We determined that the rule largely fulfills the relevant criteria summarized above. The rule improves the SIP by clarifying language, adding definitions, and adding control requirements. The rule also improves the SIP by adding requirements for compliance plans, record keeping, and testing. The rule is generally clear and contains appropriate monitoring, reporting, and recordkeeping requirements to ensure that emission limits are adequately enforceable. We found our approval of the submittal would comply with CAA section 110(l), because the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the National Ambient Air Quality Standards are met, and the submitted SIP revision is at least as stringent as the rule previously approved into the SIP. While we found the rule largely fulfilled relevant Clean Air Act 110 and Part D requirements, we identified one deficiency.

The rule established an emission limit of 2.4 pounds of VOC per 100 pounds of total material processed, as averaged on a monthly basis. EPA generally cannot approve compliance periods exceeding 24 hours unless specific criteria are met, including a clear explanation of why the application of RACT is not economically or technically feasible on a daily basis. The

District revised the rule and added supporting documentation to address the deficiency.

The District identified two major processes covered by Rule 4682, extrusion foam and expanded polystyrene molding production, and split the rule requirements by process type. Both processes are still subject to an emission limit of 2.4 pounds of VOC per 100 pounds of total material processed, calculated over a monthly period. Expandable polystyrene molding facilities, however, are now subject to an additional emission limit of 3.4 pounds of VOC per 100 pounds of total material processed, calculated daily. Based on the evaluation of the revision, we propose that Rule 4682 is consistent with RACT and the criteria for approving averaging times exceeding 24 hours. The TSD has detailed information on our evaluation.

On January 10, 2012, EPA partially approved and partially disapproved the RACT SIP submitted by California on June 18, 2009 for the SJV extreme ozone nonattainment area (2009 RACT SIP), based in part on our conclusion that the State had not fully satisfied CAA section 182 RACT requirements for polystyrene manufacturing operations. See 77 FR 1417, 1425 (January 10, 2012). Final approval of Rule 4682 would satisfy California's obligation to implement RACT under CAA section 182 for this source category for the 1-hour ozone and 1997 8-hour ozone NAAQS and thereby terminate all CAA sanction and Federal Implementation

Plan (FIP) implications of our RACT SIP action as it relates to polystyrene manufacturing.

C. EPA recommendations to further improve the rule.

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule but are not currently the basis for rule disapproval.

D. Public comment and final action.

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: May 25, 2012

Jared Blumenfeld,
Regional Administrator,
Region IX.